1 THE UNITED STATES PATENT AND TRADEMARK OFFICE' 2 Attorney Docket No: SWTZ110464 Applicants: A.N. Schwartz et al. 3 Serial No.: 08/794,154 Group Art Unit: 3408 Examiner: P. Nerbun Filed: February 3, 1997 5 Title: GOGGLES WITH PLIABLE AND RESILIENT SEALING PAD 6 STATEMENT UNDER 37 C.F.R. § 1.97(e) RECL. ED Seattle, Washington 98101 MAY 1 2 1998 7 8 April 29, 1998 GROUP 3200 9 TO THE ASSISTANT COMMISSIONER FOR PATENTS: 10 1. I, the person signing below, state that: 11 each item of information contained in the accompanying information 12 disclosure statement was cited in a communication from a foreign patent 13 office in a counterpart foreign application not more than three months prior to the filing of the statement, or 14 b. X no item of information contained in the accompanying information disclosure 15 statement was cited in a communication from a foreign patent office in a counterpart foreign application and, to my knowledge as the person signing 16 this certification after making reasonable inquiry, no item of information 17 contained in the accompanying information disclosure statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months 18 prior to the filing of this statement. 19 2 I, the person signing below, am: 20 a. X the inventor named in the application 21 b. __X__ the attorney or agent who prepared or prosecuted the application, signing on 22 the basis of: 23 the information supplied by the inventor; i. X 24 the information supplied by another individual designated in

CHRISTENSEN
O'CONNOR
JOHNSON
KINDNESSPLLC

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37 C.F.R. § 1.56(c); and/or

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1	iii the information in my file.
2	Respectfully submitted,
3	CHRISTENSEN O'CONNOR
4	JOHNSON & KINDNESSPLLC
5	I homer Sherin
6	Thomas D. Theisen
7	Registration No. 35,713
	Direct Dial (206) 224-0721
8 9	I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope a first class mail with postage thereon fully prepaid addressed to: Assistant Commissioner for Patents, Washington, D.C.
9	1 20231 on 4024, 29 1998
10	Date: April 29, 1998 Shelley K. Gasder
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THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:

A.N. Schwartz et al.

Attorney Docket No: SWTZ110464

Serial No.:

08/794,154

Group Art Unit: 3408

Filed:

February 3, 1997

Examiner: P. Nerbun

Title:

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GOGGLES WITH PLIABLE AND RESILIENT SEALING PAD

INFORMATION DISCLOSURE STATEM

MAY 1 2 1998

Seattle, Washington 98101

GROUP 3200

April 29, 1998

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Applicant is aware of the information listed in the attached form that may be material to the prosecution of the above-identified patent application.

Applicants have recently learned of the issuance of U.S. Patent No. 5,647,357 to Barnett et al. That patent application was filed on September 8, 1995 and issued on July 15, 1997. The Barnett et al. patent does not claim priority to any earlier application and thus has an effective filing date of September 8, 1995, more than seven months after the original application filed by Applicants on January 23, 1995. Application Serial No. 08/337 257

05/08/1998 \$\$ALEERU 00000078 08794154, Application Serial No. 08/337,257.

The only relevance of the Barnett et al. patent, if any, is that it tends to confirm the patentability of the pending claims in the present application. In particular, Claim 1 of the Barnett et al. patent appears to claim the same seal described in Applicants' application, but for use with a respiratory mask. Applicants respectfully submit that the failure of the Barnett et al. Examiner to cite Chen or the "medical and sport health care" language of Chen is further evidence that the use of

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CHRISTENSEN
O'CONNOR
JOHNSON

1	Chen's gelatinous elastomer as a seal for either goggles or a mask is neither taught nor suggested by			
2	Chen.			
3				
4	1.	X	Copies of the listed patents, publications, and other information are enclosed for the Examiner's use.	
5 6 7	2.		Copies of the listed patents, publications, and other information were previously cited by or submitted to the Patent and Trademark Office in prior application Serial No, filed, and relied upon for an earlier filing date under 35 U.S.C. § 120.	
8 9 10	3.		A concise explanation of the relevance of document I.D. No (which is not in the English language), as presently understood by the individual designated under 37 C.F.R. § 1.56(c) most knowledgeable about its content, is provided	
11 12 13 14	4		Pursuant to 37 C.F.R. § 1.97(b), this information disclosure statement is being filed within three months of the filing date of the national application, within three months of the date of entry of the national stage as set forth in 37 C.F.R. § 1.491 in an international application, or before the mailing date of a first Office Action on the merits.	
15 16	5	.	Pursuant to 37 C.F.R. § 1.97(c), this information disclosure statement is being filed after the period set forth in 37 C.F.R. § 1.97(b) but before the mailing date of either a final action under 37 C.F.R. § 1.113, or a notice of allowance under 37 C.F.R. § 1.311, and is accompanied by:	
17		a.	a certification as specified in 37 C.F.R. § 1.97(e); or	
19		b.	the fee set forth in 37 C.F.R. § 1.17(p). Check No in the amount of \$240.00 is enclosed.	
20.	6.	a.	X Pursuant to 37 C.F.R. § 1.97(d) this information disclosure statement is being filed after the mailing date of either a final action under 37 C.F.R. § 1.113, or a notice of allowance under 37 C.F.R. § 1.311, whichever occurs first, but	
22			before or simultaneous with payment of the issue fee. The statement is	
23			accompanied by a certification as specified in 37 C.F.R. § 1.97(e), a petition requesting consideration of the information disclosure statement is set forth	
24			below, and the petition fee set forth in 37 C.F.R. § 1.17(i)(1). Check No.95420 in the amount of \$130.00 is enclosed.	
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1	b. X Applicant hereby petitions for consideration of this information disclosure statement.
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3	7. X The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16,
۱ ٔ	1.17 and 1.18 which may be required during the entire pendency of the application, or
4	credit any overpayment, to Deposit Account No. 03-1740. This authorization also hereby includes a request for any extensions of time of the appropriate length required
5	upon the filing of any reply during the entire prosecution of this application. A copy
۱ ٔ	of this sheet is enclosed.
6	
7	Respectfully submitted,
8	CHRISTENSEN O'CONNOR
١ ،	JOHNSON & KINDNESSPLLC
9	
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-	Monus Merce
11	Thomas D. Theisen
12	Registration No. 35,713 Direct Dial (206) 224-0721
12	Direct Diai (200) 224-0721
13	I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as
14	first class mail with postage thereon fully prepaid addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on 2024 29, 1998
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15	Date: Upril 49, 1998 Milly 17 Mark L
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